Doc Code: AP.PRE.REQ

DEC 14 2006

PRE-APPEAL BRIEF REQUEST FOR REVIEW	Docket Number (Optional) 50277-2237	
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] On _12/5/06_ Signature _Annette Valdivia_ Typed or printed name Annette Valdivia	Application Number 10/648,749	Filed 08/25/2003
	First Named Inventor Sam Idicula	
	Art Unit 2162	Examiner Colan, Giovanna B.

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).
        Note: No more than five (5) pages may be provided.

I am the

☐ applicant/inventor.

☐ assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

☒ attorney or agent of record.
Registration number 50,266 .

☐ attorney or agent acting under 37 CFR 1.34.

Registration number if acting under 37 CFR 1.34

_____
Signature

Christian A. Nicholes
Typed or printed name

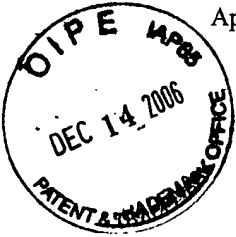408.414.1080
Telephone number

12/5/06
Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.
Submit multiple forms if more than one signature is required, see below*.

☐ *Total of _____ forms are submitted.

REMARKS

As will be seen from the discussion below, the rejections of all of the pending

claims are predicated upon clear errors of fact and, consequently, should be reversed.

Specifically, in making the rejections, the Examiner is confusing

an XML schema,

with

a document that conforms to an XML schema.

In particular, Claim 1 recites that a schema evolver receives a document that

indicates changes **that are to be made to a first XML schema.** The schema evolver

generates a second XML schema based on (a) the first XML schema and (b) the

document that indicates the changes.

Thus, Claim 1 is all about generating a new (second) XML schema, and has

nothing to do with transforming documents that conform to a schema into documents that

conform to a different schema.

In contrast, Fox is all about transforming documents that conform to a schema

into documents that conform to a different schema, and has nothing to do with generating

a new XML schema.

Specifically, Fox describes generating an XSLT script **to transform documents**

that conform to one schema into documents that conform to a different schema. Fox

refers to the XSLT script as a "transformation". Fox calls the mechanism that generates

the XSLT script a transformation generator. Fox states that the "transformation

generator" is "for **generating a transformation** from the first schema into the second

schema" (paragraph [0072], last 4 lines).

Significantly, Fox doesn't generate the second schema based on the first schema and the "transformation." Instead, Fox generates the "transformation" from the first schema (the "source data schema") **and** the second schema (the "target data schema"). Because the transformation is generated based on the second schema, the "transformation" clearly cannot be generated until the second schema already exists. Since the transformation cannot be generated until the second schema already exists, it make no sense to say that the second schema is generated based on the transformation.

Fox describes how this "transformation" is generated as follows: "At step 120, a source data schema and a target data schema are imported" (paragraph [0104]). "At step 180, a transformation is derived for transforming data conforming with the source data schema into data conforming with the target data schema" (paragraph [0107]).

It is clear from this description that the "transformation," which is "for transforming data that conforms to the source data schema into data that conforms to the target data schema" is "derived" from the source **and target** data schemas rather than the target data schema being derived from the source data schema and the "transformation."

The errors of fact underlying the Examiner's position have been set forth. There are, additionally, numerous places in Fox that are starkly inconsistent with the Examiner's interpretation. For example, Fox shows that schema receiver 210 and transformation generator 260 **receive, as input, both a source data schema and a target data schema**. Based on this input, transformation generator 260 **outputs a "derived transformation."**

For another example, paragraph [0050] says that there is "a need for a tool that can transform data **conforming to** a first schema into data **that conforms to** a second

schema." Paragraph [0049] discusses the problem of different companies using different **existing** schemas, and how this problem makes it difficult for these companies to use each other's data (because the data conform to different **existing** schemas).

For another example, paragraph [0051] says that the "present invention provides a method and system **for deriving transformations** for transforming data from one schema to another." It is the transformation that is derived based on the schemas rather than a schema being derived based on the transformation. Paragraph [0051] also mentions that XSLT script may be generated, and explains that the XSLT script can be applied to (a) documents that **conform to** the source XML schema in order to generate (b) documents that **conform to** the target XML schema. Clearly, the XSLT script transforms the documents that **conform to** the XML schemas rather than the XML schemas themselves.

For another example, paragraph [0061] says, "**Given a source XML schema and a target XML schema** . . . an appropriate **transformation** of source to target XML documents **is generated**." Clearly, the transformation is generated based on the source and target XML schemas rather than the target XML schema being generated based on the transformation.

Thus, Fox is virtually brimming with statements that support the Applicants' position and undermine the Examiner's position. Because it is predicated upon a clear error of fact, the rejection of Claim 1, as well as the rejections of all of the claims that depend from Claim 1, should be reversed.

Additionally, as amended, Claim 12 recites "wherein said one or more database object types were generated based on a second XML schema that differs from said first

XML schema." The Examiner alleges that Fox discloses this limitation in paragraph [0453], lines 8-11, which say: "For example, if the given table column has data type VARCHAR2, then the choice of properties may only include properties with target type string, or compositions of properties whereby the final property in the composition has target type string." The Examiner alleges that the "target type string" is the second XML schema, and that "VARCHAR2" is a database object type (Office Action, footnote 4).

However, "target type string" is not an XML schema in any way. As used in Fox, a "string" is a data type that comprises a sequence of one or more characters, as is well known in the art. As those skilled in the art are well aware, although an XML schema may comprise a "string," the mere fact that an XML schema comprises a "string" does not make every "string" an XML schema. Not every string has the qualities that an XML schema has. Therefore, the two are not identical or interchangeable.

Additionally, Claim 12 recites that the "database object types" must have been "generated based on" the "second XML schema." Thus, if Fox's "target type string" is taken to be analogous to the "second XML schema" of Claim 12, and if Fox's "VARCHAR2" is taken to be analogous to the "database object types" of Claim 12, then Fox's "VARCHAR2" must have been "generated based on" Fox's "target type string." Fox does not indicate that this is the case. Fox does not indicate that "VARCHAR2" (alleged "database object types") was "generated based on" any XML schema whatsoever. Actually, "VARCHAR2" is a well-known data type that comes built-in to a popular database system. Therefore, the Examiner's proposed analogy does not fit the method of Claim 12.

Because it is predicated upon a clear error of fact, the rejection of Claim 12, as well as the rejections of all of the claims that depend from Claim 12, should be reversed.

In summary, the rejections of all of the pending claims should be reversed, because, as shown above, the rejections of all of the pending claims are predicated upon clear errors of fact.